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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JAMES HARRIS, individually and as
11 personal representative of the Estate of
ALMA HARRIS, a deceased vulnerable
12 adult,

13 Plaintiff,

14 v.

15 EXTENDICARE HOMES, INC., et al.,

16 Defendants.

CASE NO. 10-05752 RBL

ORDER GRANTING
EXTENDICARE HOME INC.'S
MOTION FOR PROTECTIVE
ORDER

17 THIS MATTER has been referred to the undersigned Magistrate Judge for purposes of
18 resolving all discovery matters (ECF No. 28).

19 This Court has reviewed Defendants Extendicare Health Facilities, Inc., Extendicare
20 Health Network, Inc, Extendicare Homes Inc., Puget Sound Healthcare Center's Motion for
21 Protective Order (ECF No. 18) with supporting declaration (ECF No. 19), Plaintiff's Response
22 (ECF No. 20) and supporting declaration (ECF No. 21), and Defendant's Reply (ECF No. 24)
23 and supporting declaration (ECF No. 25).
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1 The Court also notes that on July 15, 2011, Plaintiff filed a Motion to Amend Complaint
2 to include additional parties, as well as a Motion for Extension of the Deadline to Amend
3 Complaint (ECF No. 26), with supporting declaration (ECF No. 27). While the Court is not
4 ruling on those motions at this time, it is noted that Plaintiff states in this motion that the
5 proposed amended complaint adds related parties, but that “[n]o other substantive changes have
6 been made to the Complaint. . . .” (ECF No. 28, page 2).

7 In plaintiff’s complaint (ECF No. 2, Exhibit A, paragraphs 4 and 5) plaintiff claims that
8 Alma Harris, a deceased vulnerable adult, received inadequate care at a skilled nursing facility in
9 Olympia from March of 2007 until her death in September of 2009 and alleges various statutory,
10 regulatory and common law causes of action related to the alleged care provided by defendants
11 at the Puget Sound Health Care Center, a skilled nursing facility located in Olympia,
12 Washington.

13 In their motion for a Protective Order, Defendants claim that they should not be required
14 to produce financial documents for all of the other 264 skilled nursing home facilities throughout
15 the country owned and operated by Extendicare Homes and its affiliates (ECF No. 18, page 6).
16 This Court agrees.

17 As noted by Defendants, “Discovery, like all matters of procedure, has ultimate and
18 necessary boundaries.’ Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 351 (1978).” (Cited at
19 ECF No. 18, page 7.) Plaintiff has retained the services of a “forensic accountant,” Bruce R.
20 Engstrom, CPA/ABV, CVA, CFF¹, who apparently crafted the second requests for production of
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22 ¹ Although his declaration states that his curriculum vitae is attached “as Exhibit A”, no
23 curriculum vitae was attached. For purposes of this discussion, the Court assumes that he has
24 “been accepted as a forensic accounting expert in courts around the country in a variety of
cases.” Id. at ¶ 2.

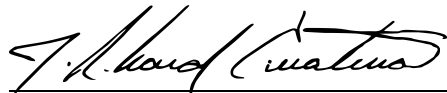
1 documents based on “what is routinely examined by me in forensic accounting cases . . .” (ECF
2 No. 21, Exhibit B, paragraph 7). While this Court is not aware of what may have been relevant
3 in other “forensic accounting cases”, Plaintiff has failed to demonstrate how producing bank
4 statements, master leases, appraisals, lists of bank accounts and other financial data for all 264
5 skilled nursing home facilities throughout the country can lead to the discovery of any relevant
6 evidence in this case.

7 Furthermore, Defendants have demonstrated that producing such documents would result
8 in a costly, time consuming endeavor that far outweighs any potentially relevant information that
9 may be gleaned from this information.

10 Therefore, it is hereby ORDERED that Defendant’s Motion for Protective Order is
11 GRANTED and Extendicare Home, Inc.’s obligation to respond to Plaintiff’s Second Request
12 for Production is limited to those documents identified in Barbara J. Duffy’s letter to Plaintiff’s
13 counsel, Ron Meyers, on June 22, 2011, which includes, and is limited to:

- 14 1. Organizational charts which identify the relationship of Extendicare Homes, Inc.
15 to the co-defendants.
- 16 2. Articles of Incorporation for Extendicare Homes, Inc.
- 17 3. Insurance policies which over Puget Sound Healthcare Center for the claims
18 related to the above-captioned lawsuit.

19 Dated this 18th day of July, 2011.

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22 J. Richard Creatura
23 United States Magistrate Judge
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